

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ESTES SMITH : CIVIL ACTION

:

v.

:

:

PATRICK R. DONAHOE, : NO. 12-2639  
Postmaster General

**O R D E R**

AND NOW, this 15<sup>th</sup> day of January, 2013, upon consideration of Defendant's Motion to Dismiss Plaintiff's Amended Complaint, the response, reply, and sur-reply, and for the reasons stated in the accompanying Memorandum, IT IS HEREBY ORDERED that Plaintiff's request to WITHDRAW Count I of the Amended Complaint is GRANTED, and the Motion to Dismiss (Doc. 14), properly considered as one filed pursuant to Federal Rule of Civil Procedure 12(b)(6), is DENIED.

BY THE COURT:

/s/ELIZABETH T. HEY

---

ELIZABETH T. HEY  
UNITED STATES MAGISTRATE JUDGE